

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**PASQUALE MARTORANA and PHILIP
MARCANTELLI,**

Plaintiffs,

v.

GREG TOSTO, Individually, and as an agent of
the Village of Elmwood Park; **THE VILLAGE
OF ELMWOOD PARK**; and **ANGELO "SKIP"
SAVIANO**, President of the Village of Elmwood
Park, in his individual capacity,

Defendants.

Case No. 16 C 4057

MEMORANDUM ORDER

This Court's July 5, 2016 memorandum opinion and order (the "Opinion") analyzed the multicount Complaint in this action in light of the Fed. R. Civ. P. ("Rule") 12(b)(6) motion filed by two of the three defendants and concluded that the Complaint had stated no viable federal-question claim. Because that determination left the remaining counts (which were sought to be advanced under the supplemental jurisdiction provisions of 28 U.S.C. § 1367(a)) without the necessary underpinning of a federal-question claim, the Opinion concluded by granting the Rule 12(b)(6) motion for dismissal of the Complaint. That said, however, the Opinion ended by affording plaintiffs' counsel a three-week opportunity to determine whether the asserted (but so far unsuccessful) First Amendment claims of co-plaintiff Pasquale Martorana "can be salvaged," failing which the final sentence of the Opinion stated an anticipated disposition of the supplemental jurisdiction contentions.

That three-week window has elapsed, and plaintiffs' counsel have now filed a Statement disclaiming any attempt to reshape any federal-question claim. Accordingly, as forecast in the Opinion's Conclusion section, it is hereby ordered that:

1. Counts I through IV and also Count XXVI, insofar as it pleads a federal claim against the Village of Elmwood Park ("Village") and Angelo Saviano ("Saviano"), are dismissed with prejudice.
2. All remaining counts (including Count XXVI insofar as it is brought (a) against co-defendant Greg Tosto or (b) on a state law theory of recovery against co-defendants Village or Saviano) are dismissed without prejudice to their being advanced in a state court of competent jurisdiction.¹

Accordingly this memorandum order has dismissed both the Complaint and this action, thus terminating this litigation in this District Court.



Milton I. Shadur
Senior United States District Judge

Date: July 27, 2016

¹ No substantive view is expressed here as to the viability or nonviability of those counts under state law.